

AMENDED IN SENATE JUNE 21, 2010

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN ASSEMBLY MARCH 16, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2260**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Furutani (Vice Chair), Beall, and Torrico)**

February 18, 2010

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An act to amend Sections 22119.2, 22126, 22212.5, 22303, 22380, 22713, 22803, 22901, 22955, 23008, 23801, 23851, 24002, 24005, 24018, 24102, 24105, 24119, 24214.5, 24216, 24300.1, 24309, ~~24607~~, 24616, 26302, 27303, and 27406 of, and to add Sections 22307.6, 24616.5, and 27303.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2260, as amended, Committee on Public Employees, Retirement and Social Security. State teachers' retirement: administration: benefits.

(1) The State Teachers' Retirement Law, which is administered by the Teachers' Retirement Board, prescribes a comprehensive system of rights and benefits for its members, including disability benefits, retirement, death benefits, and absences under the Family Medical Leave Act.

This bill would authorize the Teachers' Retirement Board, by resolution, to direct the Controller to transfer all or a portion of the assets of the Teachers' Retirement Program Development Fund for expenditure for the programs authorized to receive moneys from that

fund, if the board finds that the transfer would facilitate the administration of those programs. This bill would also make clarifying changes to those provisions of law, including changes that would identify employees who are subject to conflict of interest provisions, provide that a cancellation or change in a retirement option may not be made on the effective date of a member's retirement, clarify that applications for disability retirement are required to be submitted on properly executed forms, and conform those provisions with applicable provisions of federal law.

(2) Existing law provides that an employer shall reimburse the retirement system for any overpayments of benefits that occur as a result of erroneous reporting.

This bill would, in the case of employer-reported erroneous information that result in an overpayment, require the system to calculate the actuarial present value of the payments that should have been received from a member, former member, or beneficiary and would require the employer to pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 22119.2 of the Education Code is  
2     amended to read:  
3     22119.2. (a) "Creditable compensation" means remuneration  
4     that is payable in cash by an employer to all persons in the same  
5     class of employees and is paid to an employee for performing  
6     creditable service. Creditable compensation shall include:  
7     (1) Salary paid in accordance with a salary schedule or  
8     employment agreement.  
9     (2) Remuneration that is paid in addition to salary, providing it  
10    is payable to all persons who are in the same class of employees  
11    in the same dollar amount, the same percentage of salary, or the  
12    same percentage of the amount being distributed.  
13    (3) Remuneration that is paid for the use of sick leave, vacation,  
14    and other employer-approved leave, except as provided in  
15    paragraph (4) of subdivision (c).

1 (4) Member contributions that are picked up by an employer  
2 pursuant to Section 22903 or 22904.

3 (5) Amounts that are deducted from a member's compensation,  
4 including, but not limited to, salary deductions for participation  
5 in a deferred compensation plan; deductions to purchase an annuity  
6 contract, tax- deferred retirement plan, or insurance program; and  
7 contributions to a plan that meets the requirements of Section 125,  
8 401(k), or 403(b) of Title 26 of the United States Code.

9 (6) Any other payments the board determines to be "creditable  
10 compensation."

11 (b) Any salary or other remuneration determined by the board  
12 to have been paid for the principal purpose of enhancing a  
13 member's benefits under the plan shall not be credited under the  
14 Defined Benefit Program. Contributions on that compensation  
15 shall be credited to the Defined Benefit Supplement Program. A  
16 presumption by the board that salary or other remuneration was  
17 paid for the principal purpose of enhancing the member's benefits  
18 under the plan may be rebutted by the member or by the employer  
19 on behalf of the member. Upon receipt of sufficient evidence to  
20 the contrary, a presumption by the board that salary or other  
21 remuneration was paid for the principal purpose of enhancing the  
22 member's benefits under the plan may be reversed.

23 (c) "Creditable compensation" does not mean and shall not  
24 include:

25 (1) Remuneration that is not payable in cash or is not payable  
26 to all persons who are in the same class of employees.

27 (2) Remuneration that is paid for service that is not creditable  
28 service pursuant to Section 22119.5.

29 (3) Remuneration that is paid in addition to salary if it is not  
30 payable to all persons in the same class of employees in the same  
31 dollar amount, the same percentage of salary, or the same  
32 percentage of the amount being distributed pursuant to paragraph  
33 (2) of subdivision (a).

34 (4) Remuneration that is paid for unused accumulated leave.

35 (5) Annuity contracts, tax-deferred retirement plans, or insurance  
36 programs and contributions to plans that meet the requirements of  
37 Section 125, 401(k), or 403(b) of Title 26 of the United States  
38 Code when the cost is covered by an employer and is not deducted  
39 from the member's salary.

40 (6) Fringe benefits provided by an employer.

1 (7) Job-related expenses paid or reimbursed by an employer.

2 (8) Severance pay or compensatory damages or money paid to  
3 a member in excess of salary as a compromise settlement.

4 (9) Any other payments the board determines not to be  
5 “creditable compensation.”

6 (d) An employer or individual who knowingly or willfully  
7 reports compensation in a manner inconsistent with subdivision  
8 (a) or (c) may be subject to prosecution for fraud, theft, or  
9 embezzlement in accordance with the Penal Code. The system  
10 may establish procedures to ensure that compensation reported by  
11 an employer is in compliance with this section.

12 (e) For purposes of this section, remuneration shall be considered  
13 payable if it would be paid to any person who meets the  
14 qualifications or requirements specified in a collective bargaining  
15 agreement or an employment agreement as a condition of receiving  
16 the remuneration.

17 (f) This definition of “creditable compensation” reflects sound  
18 principles that support the integrity of the retirement fund. Those  
19 principles include, but are not limited to, consistent treatment of  
20 compensation throughout a member’s career, consistent treatment  
21 of compensation among an entire class of employees, preventing  
22 adverse selection, and excluding from compensation earnable  
23 remuneration that is paid for the principal purpose of enhancing a  
24 member’s benefits under the plan. The board shall determine the  
25 appropriate crediting of contributions between the Defined Benefit  
26 Program and the Defined Benefit Supplement Program according  
27 to these principles, to the extent not otherwise specified pursuant  
28 to this part.

29 (g) The section shall become operative on July 1, 2002, if the  
30 revenue limit cost-of-living adjustment computed by the  
31 Superintendent of Public Instruction for the 2001–02 fiscal year  
32 is equal to or greater than 3.5 percent. Otherwise this section shall  
33 become operative on July 1, 2003.

34 SEC. 2. Section 22126 of the Education Code is amended to  
35 read:

36 22126. “Disability” or “disabled” means any medically  
37 determinable physical or mental impairment that is permanent or  
38 that can be expected to last continuously for at least 12 months,  
39 measured from the onset of the disability, but no earlier than the  
40 day following the last day of actual performance of service that

1 prevents a member from performing the member's usual duties  
2 for the member's employer, the member's usual duties for the  
3 member's employer with reasonable modifications, or the duties  
4 of a comparable level position for which the member is qualified  
5 or can become qualified within a reasonable period of time by  
6 education, training, or experience. Any impairment from a willful  
7 self-inflicted injury shall not constitute a disability.

8 SEC. 3. Section 22212.5 of the Education Code is amended to  
9 read:

10 22212.5. (a) Except as otherwise provided in subdivision (d),  
11 this section shall apply to the following positions in the system:  
12 chief executive officer, system actuary, general counsel, chief  
13 investment officer, and other investment officers and portfolio  
14 managers whose positions are designated managerial pursuant to  
15 Section 18801.1 of the Government Code.

16 (b) Notwithstanding Sections 19816, 19825, 19826, 19829, and  
17 19832 of the Government Code, the board shall fix the  
18 compensation for the positions specified in subdivision (a). In so  
19 doing, the board shall be guided by the principles contained in  
20 Sections 19826 and 19829 of the Government Code, consistent  
21 with its fiduciary responsibility to its members to recruit and retain  
22 highly qualified and effective employees for these positions.

23 (c) When a position specified in subdivision (a) is filled through  
24 a general civil service appointment, it shall be filled from an  
25 eligible list based on an examination that was held on an open  
26 basis, and tenure in those positions shall be subject to the provisions  
27 of Article 2 (commencing with Section 19590) of Chapter 7 of  
28 Part 2 of Division 5 of Title 2 of the Government Code. In addition  
29 to the causes for action specified in that article, the board may take  
30 action under the article for causes related to its fiduciary  
31 responsibility to its members, including the employee's failure to  
32 meet specified performance objectives.

33 (d) An individual who held a position designated in subdivision  
34 (a), or was a member of the board, a chief of staff, a deputy chief  
35 executive officer, chief financial officer, or was in an equivalent  
36 senior management position, shall not, for a period of two years  
37 after leaving that position, for compensation, act as agent or  
38 attorney for, or otherwise represent, any other person, except the  
39 state, by making any formal or informal appearance before or by  
40 making any oral or written communication to the board, or any

1 officer or employee thereof, if the appearance or communication  
2 is made for the purpose of influencing administrative or legislative  
3 action or any action or proceeding involving the issuance,  
4 amendment, awarding, or revocation of a permit, license, grant,  
5 contract, or sale or purchase of goods or property.

6 SEC. 4. Section 22303 of the Education Code is amended to  
7 read:

8 22303. (a) Due to an increase in the demand for retirement  
9 counseling services, the system, notwithstanding any other  
10 provision of law, may contract with a county superintendent or  
11 other employer to provide retirement counseling. Retired public  
12 employees may be employed on a part-time basis for that purpose,  
13 unless and until the study required by subdivision (b) of Section  
14 7 of Chapter 1532 of the Statutes of 1985 recommends against the  
15 employment of retired public employees for these purposes. This  
16 authorization is subject to the availability of funds appropriated  
17 for that purpose in the annual Budget Act.

18 (b) The board may, by resolution, designate one or more official  
19 contracted offices or benefits counselors that provide retirement  
20 counseling pursuant to subdivision (a) to receive documents  
21 submitted pursuant to this part, Part 13.5 (commencing with  
22 Section 25900), or Part 14 (commencing with Section 26000).  
23 Notwithstanding any other provision of law, any document received  
24 by an official contracted office or a benefits counselor designated  
25 by the board pursuant to this subdivision during the office's regular  
26 business hours or any benefits counseling activity shall be deemed  
27 to have been received by the system's headquarters office, as  
28 established pursuant to Section 22375, on the date received by the  
29 designated official contracted office or benefits counselor.

30 SEC. 5. Section 22307.6 is added to the Education Code, to  
31 read:

32 22307.6. The board may, by resolution, direct the Controller  
33 to transfer all or a portion of the assets in the Teachers' Retirement  
34 Program Development Fund, established pursuant to Section  
35 22307.5, into the designated fund or account that is authorized to  
36 expend funds for the same program for which the assets in the  
37 Teachers' Retirement Program Development Fund were credited,  
38 if the board finds that the transfer of the assets of the Teachers'  
39 Retirement Program Development Fund into the designated fund

1 or account would facilitate the efficient administration of the  
2 program for which the fund or account was established.

3 SEC. 6. Section 22380 of the Education Code is amended to  
4 read:

5 22380. (a) The board shall establish a building account for the  
6 transfer of money appropriated for that purpose from the retirement  
7 fund for the construction or remodeling of buildings and  
8 improvements thereon, maintenance, repair, and improvement  
9 thereof.

10 (b) The board may contract with the Department of General  
11 Services for the purchase of insurance against loss of, or damage  
12 to, the property or the loss of use or occupancy of the building,  
13 liability insurance, and other insurance that is customarily carried  
14 on state office buildings. Premiums for this insurance shall be paid  
15 from the building account.

16 (c) The land, building, equipment, and improvements thereon,  
17 shall constitute an investment of the system and shall be carried  
18 on the books thereof in accordance with generally accepted  
19 accounting principles.

20 SEC. 7. Section 22713 of the Education Code is amended to  
21 read:

22 22713. (a) Notwithstanding any other provision of this chapter,  
23 the governing board of a school district or a community college  
24 district or a county superintendent of schools may establish  
25 regulations that allow an employee who is a member of the Defined  
26 Benefit Program to reduce his or her workload from full time to  
27 part time, and receive the service credit the member would have  
28 received if the member had been employed on a full-time basis  
29 and have his or her retirement allowance, as well as other benefits  
30 that the member is entitled to under this part, based, in part, on  
31 final compensation determined from the compensation earnable  
32 the member would have been entitled to if the member had been  
33 employed on a full-time basis, and as further specified in Sections  
34 44922, 87483, and 89516.

35 (b) The regulations shall include, but may not be limited to, the  
36 following:

37 (1) The option to reduce the member's workload shall be  
38 exercised at the request of the member and may be revoked only  
39 with the mutual consent of the employer and the member. The

1 agreement to reduce a member's workload shall be in effect at the  
2 beginning of the school year.

3 (2) The member shall have been employed on a full-time basis  
4 to perform creditable service subject to coverage under the Defined  
5 Benefit Program and have a minimum of 10 years of credited  
6 service prior to the reduction in workload. Additionally, the  
7 member shall have five years of full-time employment immediately  
8 preceding the reduction in workload.

9 (3) The member may not have had a break in service during the  
10 five years immediately preceding the reduction in workload. For  
11 purposes of this subdivision, sabbaticals, other approved leaves  
12 of absence, and unpaid absences from the performance of creditable  
13 service for personal reasons from full-time employment do not  
14 constitute a break in service. For purposes of this subdivision, the  
15 period of time during which a member is retired for service shall  
16 constitute a break in service and a member who reinstates from  
17 retirement shall be required to be employed on a full-time basis  
18 to perform creditable service for at least five school years  
19 immediately preceding the reduction in workload.

20 (4) The member shall have reached 55 years of age prior to the  
21 reduction in workload.

22 (5) The reduced workload shall be performed for a period of  
23 time, as specified in the regulations, up to and including 10 years.  
24 The period of time specified in the regulations may not exceed 10  
25 years.

26 (6) The reduced workload shall be equal to at least one-half of  
27 the time the employer requires for full-time employment in  
28 accordance with Section 22138.5 pursuant to the member's contract  
29 of employment during his or her last school year of full-time  
30 employment preceding the reduction in workload.

31 (7) The member shall be paid creditable compensation that is  
32 the pro rata share of the creditable compensation the member would  
33 have been paid had the member not reduced his or her workload.

34 (c) Prior to the reduction of a member's workload under this  
35 section, the employer, in conjunction with the administrative staff  
36 of the State Teachers' Retirement Plan and the Public Employees'  
37 Retirement System, shall verify the member's eligibility for the  
38 reduced workload program.

39 (d) For each school year the member's workload is reduced  
40 pursuant to this section, the member shall make contributions to



1 the Teachers' Retirement Fund in the amount that the member  
2 would have contributed if the member had performed creditable  
3 service on a full-time basis and if that service was subject to  
4 coverage under the Defined Benefit Program.

5 (e) For each school year the member's workload is reduced  
6 pursuant to this section, the employer shall contribute to the  
7 Teachers' Retirement Fund at a rate adopted by the board as a plan  
8 amendment with respect to the Defined Benefit Program an amount  
9 based upon the creditable compensation that would have been paid  
10 to the member if the member had performed creditable service on  
11 a full-time basis and if that service was subject to coverage under  
12 the Defined Benefit Program.

13 (f) The employer shall maintain the necessary records to  
14 separately identify each member who participates in the reduced  
15 workload program pursuant to this section.

16 (g) A member who retires or otherwise separates from service  
17 prior to the end of the school year shall be in violation of this  
18 section and the member's service credit for that period of the  
19 contract shall be computed in accordance with Section 22701.

20 (h) A member performing service in accordance with this section  
21 may not terminate his or her agreement pursuant to paragraph (1)  
22 of subdivision (b) if the employer has a formalized agreement to  
23 pick up member contributions pursuant to Section 22903. A  
24 member may terminate the agreement only if the employee takes  
25 one of the following actions:

26 (1) Terminates service.

27 (2) Retires from service under the Defined Benefit Program.

28 (3) Continues to perform service pursuant to this section under  
29 a new arrangement to perform creditable service for at least  
30 one-half of the time the employer requires for full-time  
31 employment in accordance with Section 22138.5.

32 (4) Returns to full-time employment.

33 SEC. 8. Section 22803 of the Education Code is amended to  
34 read:

35 22803. (a) A member, other than a retired member, may  
36 request to purchase service credit for any of the following:

37 (1) Service performed in a teaching position in the University  
38 of California or California State University that is not covered by  
39 another public retirement system.

1 (2) Service performed in a certificated teaching position in a  
2 child care center operated by a county superintendent of schools  
3 or a school district in this state.

4 (3) Service performed in a teaching position in the California  
5 School for the Deaf or the California School for the Blind, or in  
6 special classes maintained by the public schools of this state for  
7 the instruction of the deaf, the hard of hearing, the blind, or the  
8 semisighted.

9 (4) Service performed in a certificated teaching position in a  
10 federally supported and administered Indian school in this state.

11 (5) Time served, not to exceed two years, in a certificated  
12 teaching position in a job corps center administered by the United  
13 States government in this state if the member was employed to  
14 perform creditable service subject to coverage under the Defined  
15 Benefit Program within one year prior to entering the job corps  
16 and returned to employment to perform creditable service subject  
17 to coverage under the Defined Benefit Program within six months  
18 following the date of termination of service in the job corps.

19 (6) Time served, not to exceed two years, in a teaching position  
20 as a member of the Peace Corps if the member was employed to  
21 perform creditable service subject to coverage under the Defined  
22 Benefit Program within one year prior to entering the Peace Corps  
23 and returned to employment to perform creditable service subject  
24 to coverage under the Defined Benefit Program within six months  
25 following the date of termination of service in the Peace Corps.

26 (7) Time spent on a sabbatical leave, approved by an employer  
27 in this state after meeting the requirements of Section 44969.

28 (8) Time spent on an approved leave, approved by an employer  
29 in this state, to participate in any program under the federal Mutual  
30 Educational and Cultural Exchange Program.

31 (9) Time spent on leave approved by an employer in this state  
32 as maternity or paternity leave, not to exceed 24 consecutive  
33 months, regardless of whether or not the leave was taken before  
34 or after the addition of this subdivision.

35 (10) Time spent on an employer-approved leave based on the  
36 guidelines for the Family and Medical Leave Act or the California  
37 Family Rights Act, or both, up to a total of 12 workweeks in any  
38 12-month period.

39 (11) Time spent employed by the Board of Governors of the  
40 California Community Colleges in a position subject to coverage

1 by the Public Employees' Retirement System between July 1,  
2 1991, and December 31, 1997, provided the member has elected  
3 to return to coverage under the State Teachers' Retirement System  
4 pursuant to Section 20309 of the Government Code.

5 (b) In no event shall the member receive credit for service or  
6 time described in paragraphs (1) to (11), inclusive, of subdivision  
7 (a) if the member has received or is eligible to receive credit for  
8 the same service or time in the Cash Balance Benefit Program  
9 under Part 14 (commencing with Section 26000) or another public  
10 retirement system.

11 SEC. 9. Section 22901 of the Education Code is amended to  
12 read:

13 22901. (a) Each member of the Defined Benefit Program shall  
14 contribute to the retirement fund an amount equivalent to 8 percent  
15 of the member's creditable compensation.

16 (b) Notwithstanding Section 22905, any member contributions  
17 for service performed during the 2010–11 school year with a  
18 service period ending after December 31, 2010, shall be credited  
19 pursuant to subdivision (a).

20 SEC. 10. Section 22955 of the Education Code is amended to  
21 read:

22 22955. (a) Notwithstanding Section 13340 of the Government  
23 Code, commencing July 1, 2003, a continuous appropriation is  
24 hereby annually made from the General Fund to the Controller,  
25 pursuant to this section, for transfer to the Teachers' Retirement  
26 Fund. The total amount of the appropriation for each year shall be  
27 equal to 2.017 percent of the total of the creditable compensation  
28 of the fiscal year ending in the immediately preceding calendar  
29 year upon which members' contributions are based, as reported  
30 annually to the Director of Finance, the Chairperson of the Joint  
31 Legislative Budget Committee, and the Legislative Analyst  
32 pursuant to Section 22955.5, and shall be divided into four equal  
33 payments. The payments shall be made on, or the following  
34 business day after, July 1, October 1, December 15, and April 15  
35 of each fiscal year.

36 (b) Notwithstanding Section 13340 of the Government Code,  
37 commencing October 1, 2003, a continuous appropriation, in  
38 addition to the appropriation made by subdivision (a), is hereby  
39 annually made from the General Fund to the Controller for transfer  
40 to the Teachers' Retirement Fund. The total amount of the

1 appropriation for each year shall be equal to 0.524 percent of the  
2 total of the creditable compensation of the fiscal year ending in  
3 the immediately preceding calendar year upon which members'  
4 contributions are based, as reported annually to the Director of  
5 Finance, the Chairperson of the Joint Legislative Budget  
6 Committee, and the Legislative Analyst pursuant to Section  
7 22955.5, and shall be made on, or the following business day after,  
8 July 1, October 1, December 15, and April 15 of each fiscal year.  
9 The percentage shall be adjusted to reflect the contribution required  
10 to fund the normal cost deficit or the unfunded obligation as  
11 determined by the board based upon a recommendation from its  
12 actuary. If a rate increase is required, the adjustment may be for  
13 no more than 0.25 percent per year and in no case may the transfer  
14 made pursuant to this subdivision exceed 1.505 percent of the total  
15 of the creditable compensation of the fiscal year ending in the  
16 immediately preceding calendar year upon which members'  
17 contributions are based. At any time when there is neither an  
18 unfunded obligation nor a normal cost deficit, the percentage shall  
19 be reduced to zero. The funds transferred pursuant to this  
20 subdivision shall first be applied to eliminating on or before June  
21 30, 2027, the unfunded actuarial liability of the fund identified in  
22 the actuarial valuation as of June 30, 1997.

23 (c) For the purposes of this section, the term "normal cost  
24 deficit" means the difference between the normal cost rate as  
25 determined in the actuarial valuation required by Section 22311  
26 and the total of the member contribution rate required under Section  
27 22901 and the employer contribution rate required under Section  
28 22950, and shall exclude (1) the portion for unused sick leave  
29 service credit granted pursuant to Section 22717, and (2) the cost  
30 of benefit increases that occur after July 1, 1990. The contribution  
31 rates prescribed in Section 22901 and Section 22950 on July 1,  
32 1990, shall be utilized to make the calculations. The normal cost  
33 deficit shall then be multiplied by the total of the creditable  
34 compensation upon which member contributions under this part  
35 are based to determine the dollar amount of the normal cost deficit  
36 for the year.

37 (d) Pursuant to Section 22001 and case law, members are  
38 entitled to a financially sound retirement system. It is the intent of  
39 the Legislature that this section shall provide the retirement fund  
40 stable and full funding over the long term.

1 (e) This section continues in effect but in a somewhat different  
2 form, fully performs, and does not in any way unreasonably impair,  
3 the contractual obligations determined by the court in California  
4 Teachers' Association v. Cory, 155 Cal.App.3d 494.

5 (f) Subdivision (b) shall not be construed to be applicable to  
6 any unfunded liability resulting from any benefit increase or change  
7 in contribution rate under this part that occurs after July 1, 1990.

8 (g) The provisions of this section shall be construed and  
9 implemented to be in conformity with the judicial intent expressed  
10 by the court in California Teachers' Association v. Cory, 155  
11 Cal.App.3d 494.

12 (h) This section shall become operative on July 1, 2003, if the  
13 revenue limit cost-of-living adjustment computed by the  
14 Superintendent of Public Instruction for the 2001–02 fiscal year  
15 is equal to or greater than 3.5 percent. Otherwise this section shall  
16 become operative on July 1, 2004.

17 SEC. 11. Section 23008 of the Education Code is amended to  
18 read:

19 23008. (a) If more or less than the required contributions  
20 specified in this part and Section 44987 are paid to the system  
21 based on any payment of creditable compensation to a member,  
22 proper adjustments shall be made on a monthly report, by the  
23 county superintendent, district superintendent, chancellor of a  
24 community college district, or other employing agency who  
25 submitted the report, within 60 days after discovery or notification  
26 by the system and any refunds shall be made to the member within  
27 the same time period by the employing agency.

28 (b) The board shall, in accordance with regulations, assess  
29 penalties for late or improper adjustments pursuant to Section  
30 23006. These penalties shall be no more than the regular interest  
31 as defined in Section 22162. The penalty so assessed shall be  
32 deemed interest earned in the year in which it was received.

33 SEC. 12. Section 23801 of the Education Code is amended to  
34 read:

35 23801. (a) A death payment of no less than five thousand  
36 dollars (\$5,000) shall be paid to the beneficiary upon receipt of  
37 proof of death of a member who had one or more years of credited  
38 service, at least one of which had been performed subsequent to  
39 the most recent refund of accumulated retirement contributions,  
40 if the member died during any one of the following periods:

1 (1) While in employment for which creditable compensation is  
2 paid.

3 (2) While disabled, if the disability had been continuous from  
4 the last day for which creditable compensation had been paid.

5 (3) Within four months after termination of creditable service  
6 or termination of employment, whichever occurs first.

7 (4) Within four months after termination of a disability  
8 allowance if no service was performed after the termination.

9 (5) Within 12 months of the last day for which creditable  
10 compensation was paid, if the member was on an approved leave  
11 of absence without compensation for reasons other than disability  
12 or military service.

13 (b) A death payment pursuant to this section shall not be payable  
14 for the death of a member that occurs within one year commencing  
15 with the effective date of reinstatement from service retirement  
16 pursuant to Section 24208.

17 (c) The board may adjust the death payment amount following  
18 each actuarial valuation based on changes in the All Urban  
19 California Consumer Price Index and adopt any adjusted amount  
20 as a plan amendment.

21 (d) A beneficiary may waive his or her right to the death  
22 payment in accordance with the requirements established by the  
23 system.

24 SEC. 13. Section 23851 of the Education Code is amended to  
25 read:

26 23851. (a) A death payment of not less than twenty thousand  
27 dollars (\$20,000) shall be paid to the beneficiary, as designated  
28 pursuant to Section 23300, upon receipt of proof of death of a  
29 member, who had one or more years of credited service, at least  
30 one of which had been performed subsequent to the most recent  
31 refund of accumulated retirement contributions, if the member  
32 died during any one of the following periods:

33 (1) While in employment for which creditable compensation is  
34 paid.

35 (2) Within four months after termination of creditable service  
36 or termination of employment, whichever occurs first.

37 (3) Within 12 months of the last day for which creditable  
38 compensation was paid, if the member was on an approved leave  
39 of absence without creditable compensation for reasons other than  
40 disability or military service.

1 (b) A death payment pursuant to this section shall not be payable  
2 for the death of a member that occurs within one year commencing  
3 with the effective date of termination of the service retirement  
4 allowance pursuant to Section 24208 or during the six calendar  
5 months commencing with the effective date of termination of the  
6 disability retirement allowance pursuant to Section 24117.

7 (c) The board may adjust the death payment amount following  
8 each actuarial valuation based on changes in the All Urban  
9 California Consumer Price Index and adopt as a plan amendment  
10 with respect to the Defined Benefit Program any adjusted amount.

11 (d) A designated beneficiary may waive the right to the death  
12 payment in accordance with the requirements established by the  
13 system.

14 SEC. 14. Section 24002 of the Education Code is amended to  
15 read:

16 24002. The board may authorize payment of a disability  
17 allowance to any member who is qualified upon application under  
18 this part by the member, the member's guardian or conservator,  
19 or the member's employer, if the application is submitted on a  
20 properly executed form prescribed by the system during any one  
21 of the following periods:

22 (a) While the member is employed or on a compensated leave  
23 of absence.

24 (b) While the member is physically or mentally incapacitated  
25 for performance of service and the incapacity has been continuous  
26 from the last day of actual performance of service for which  
27 compensation is payable to the member.

28 (c) While the member is on a leave of absence without  
29 compensation, granted for reason other than mental or physical  
30 incapacity for performance of service, and within four months  
31 after the last day of actual performance of service for which  
32 compensation is payable to the member, or within 12 months of  
33 that date if the member is on an employer-approved leave to study  
34 at an approved college or university.

35 (d) Within four months after the termination of the member's  
36 employment subject to coverage under the Defined Benefit  
37 Program, if the application was not made under subdivision (b)  
38 and was not made more than four months after the last day of actual  
39 performance of service for which compensation is payable to the  
40 member.

(e) A member with a dependent child, who becomes disabled prior to normal retirement age, and whose sick leave will extend beyond normal retirement age, may be awarded a disability allowance with an effective date after normal retirement age, if the application is filed prior to attaining normal retirement age.

(f) The member is not applying for a disability allowance because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 15. Section 24005 of the Education Code is amended to read:

24005. (a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for disability allowance is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's application for a disability allowance shall be rejected and a disability allowance shall not be payable to the member.

SEC. 16. Section 24018 of the Education Code is amended to read:

24018. When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the



1 original disability, that can be medically substantiated, it shall be  
2 considered, for the purpose of determining the duration of the  
3 disability, that the condition had its onset as of the date the member  
4 first became disabled. The former disability allowance under this  
5 part shall again become payable as of the later of the first day of  
6 the month in which the recurrence of the disability occurred or the  
7 last day of creditable service for which compensation is payable  
8 to the member provided the member complies with the provisions  
9 of Section 24003.

10 SEC. 17. Section 24102 of the Education Code is amended to  
11 read:

12 24102. The board may authorize payment of a disability  
13 retirement allowance under this part to any member who is  
14 qualified upon application by the member, the member's guardian  
15 or conservator, or the member's employer, if the application is  
16 submitted on a properly executed form prescribed by the system  
17 during any one of the following periods:

18 (a) While the member is employed or on a compensated leave  
19 of absence.

20 (b) While the member is physically or mentally incapacitated  
21 for performance of service and the incapacity has been continuous  
22 from the last day of actual performance of service for which  
23 compensation is payable to the member.

24 (c) While the member is on a leave of absence without  
25 compensation, granted for reason other than mental or physical  
26 incapacity for performance of service, and within four months  
27 after the last day of actual performance of service for which  
28 compensation is payable to the member, or within 12 months of  
29 that date if the member was on an employer-approved leave to  
30 study at an approved college or university.

31 (d) Within four months after the termination of the member's  
32 employment subject to coverage under the Defined Benefit  
33 Program, if the application was not made under subdivision (b)  
34 and was not made more than four months after the last day of actual  
35 performance of service for which compensation is payable to the  
36 member.

37 (e) The member is not applying for a disability retirement  
38 allowance because of a physical or mental condition that existed  
39 at the time the most recent membership in the Defined Benefit

1 Program commenced and which remains substantially unchanged  
2 at the time of application.

3 SEC. 18. Section 24105 of the Education Code is amended to  
4 read:

5 24105. (a) A disability retirement allowance under this part  
6 shall become effective upon any date designated by the member,  
7 provided that all of the following conditions are met:

8 (1) An application for disability retirement is filed on a properly  
9 executed form prescribed by the system.

10 (2) The effective date is later than the last day of creditable  
11 service for which compensation is payable to the member.

12 (3) The effective date is no earlier than either the first day of  
13 the month in which the application is received at the system's  
14 headquarters office, as established pursuant to Section 22375, or  
15 the date upon and continuously after which the member is  
16 determined to the satisfaction of the board to have been mentally  
17 incompetent.

18 (b) If a member's application for disability retirement under  
19 this part does not contain an election of either an unmodified  
20 allowance or an allowance modified under an option and if the  
21 member subsequently submits an election, but not within the  
22 30-day period established pursuant to Section 24301, the board  
23 shall set a benefit effective date which is no earlier than the first  
24 day of the month in which the subsequent election is received by  
25 the system. If the member fails to submit an election pursuant to  
26 Section 24301 and within six months of the date the  
27 acknowledgment notice is mailed pursuant to Section 24301, the  
28 member's application for disability retirement under this part shall  
29 be rejected.

30 (c) If the member is employed to perform creditable service  
31 subject to coverage under the Defined Benefit Program at the time  
32 the disability retirement is approved, the member shall notify the  
33 system in writing, within 90 days, of the last day on which the  
34 member will perform service. If the member does not respond  
35 within 90 days, or if the last day on which service will be  
36 performed is more than 90 days after the date the system notifies  
37 the member of the approval of disability retirement, the member's  
38 application for disability retirement shall be rejected and a  
39 disability retirement allowance shall not be payable to the member.

1 SEC. 19. Section 24119 of the Education Code is amended to  
2 read:

3 24119. When a member retired for disability under this part  
4 returns to work in the member's former position of employment  
5 or in a comparable level position and within six months of return  
6 experiences a recurrence of the original disability, which can be  
7 medically substantiated, it shall be considered, for the purpose of  
8 determining the duration of the disability, that the condition had  
9 its onset as of the date the member first became disabled. The  
10 former disability retirement allowance shall again become payable  
11 as of the later of the first day of the month in which the recurrence  
12 of the disability occurred or the last day of creditable service for  
13 which compensation is payable to the member, provided the  
14 member complies with Section 24103.

15 SEC. 20. Section 24214.5 of the Education Code is amended  
16 to read:

17 24214.5. (a) Notwithstanding Section 24214, as of July 1,  
18 2010, the postretirement compensation limitation that shall apply  
19 to the compensation for performance of the activities identified in  
20 subdivision (a) or (b) of Section 22119.5 either as an employee of  
21 an employer, an employee of a third party, or as an independent  
22 contractor, within the California public school system, shall be  
23 zero dollars (\$0) during the first six calendar months after a  
24 member retired for service under this part, if the member is below  
25 normal retirement age at the time the compensation is earned.

26 (b) If a member retired for service under this part earns  
27 compensation for performing activities identified in subdivision  
28 (a) or (b) of Section 22119.5 in excess of the limitation specified  
29 in subdivision (a), as an employee of an employer, as an employee  
30 of a third party, or as an independent contractor, within the  
31 California public school system, the member's retirement  
32 allowance shall be reduced by the amount of the excess  
33 compensation. The amount of the reduction may be equal to the  
34 monthly allowance payable but may not exceed the amount of the  
35 annual allowance payable under this part for the fiscal year in  
36 which the excess compensation was earned.

37 SEC. 21. Section 24216 of the Education Code is amended to  
38 read:

39 24216. (a) (1) A member retired for service under this part  
40 who is appointed as a trustee or administrator by the Superintendent

1 pursuant to Section 41320.1, or who is appointed as a trustee  
2 pursuant to the Local Educational Agency Intervention provisions  
3 (Article 3.1 (commencing with Section 52055.57) of Chapter 6.1  
4 of Part 28 of Title 2), or a member retired for service who is  
5 assigned by a county superintendent of schools pursuant to Article  
6 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall  
7 be exempt from subdivisions (d) and (f) of Section 24214 for a  
8 maximum period of 24 consecutive months.

9 (2) The period of exemption shall commence on the date the  
10 member retired for service is appointed or assigned to the position  
11 and shall end no more than 24 consecutive months from that date,  
12 after which the limitation specified in subdivisions (d) and (f) of  
13 Section 24214 shall apply.

14 (3) An exemption under this subdivision shall be granted by the  
15 system providing that the Superintendent or the county  
16 superintendent of schools submits documentation required by the  
17 system to substantiate the eligibility of the member retired for  
18 service for an exemption under this subdivision. The documentation  
19 shall be received by the system no later than June 30 of the school  
20 year for which the exemption is to apply.

21 (b) (1) A member retired for service under this part who is  
22 employed by an employer to perform creditable service in an  
23 emergency situation to fill a vacant administrative position  
24 requiring highly specialized skills shall be exempt from the  
25 provisions of subdivisions (d) and (f) of Section 24214 for  
26 creditable service performed up to one-half of the full-time  
27 position, if the vacancy occurred due to circumstances beyond the  
28 control of the employer.

29 (2) The period of exemption shall commence on the date the  
30 member retired for service is appointed or assigned to the position  
31 and shall end no more than 24 consecutive months from that date,  
32 after which the limitation specified in subdivisions (d) and (f) of  
33 Section 24214 shall apply.

34 (3) An exemption under this subdivision shall be granted by the  
35 system subject to the following conditions:

36 (A) The recruitment process to fill the vacancy on a permanent  
37 basis is expected to extend over several months.

38 (B) The employment is reported in a public meeting of the  
39 governing body of the employer.

1 (C) The employer submits documentation required by the system  
2 to substantiate the eligibility of the member retired for service for  
3 an exemption under this subdivision. The documentation shall be  
4 received by the system no later than June 30 of the school year for  
5 which the exemption is to apply.

6 (4) An exemption under this subdivision shall not be granted  
7 to a member retired for service whose termination of employment  
8 with the employer is the basis for the vacant administrative  
9 position.

10 (c) This section does not apply to any person who has received  
11 additional service credit pursuant to Section 22715 or 22716.

12 (d) A person who has received additional service credit pursuant  
13 to Section 22714 or 22714.5 shall be ineligible for one year from  
14 the effective date of retirement for the exemption provided in this  
15 section for service performed in any school district, community  
16 college district, or county office of education in the state.

17 (e) This section shall remain in effect only until June 30, 2012,  
18 and shall be repealed on January 1, 2013, unless a later enacted  
19 statute deletes or extends that date.

20 SEC. 22. Section 24300.1 of the Education Code is amended  
21 to read:

22 24300.1. (a) A member may, prior to the effective date of his  
23 or her retirement, elect an option pursuant to this part that would  
24 provide an actuarially modified retirement allowance payable  
25 throughout the life of the member and the member's option  
26 beneficiary or beneficiaries, as follows:

27 (1) One hundred percent beneficiary option. The modified  
28 retirement allowance shall be paid to the member and upon the  
29 member's death, 100 percent of the modified allowance shall  
30 continue to be paid to the option beneficiary.

31 (2) Seventy-five percent beneficiary option. The modified  
32 retirement allowance shall be paid to the member and upon the  
33 member's death, 75 percent of the modified allowance shall  
34 continue to be paid to the option beneficiary. Pursuant to Section  
35 401(a)(9) of the Internal Revenue Code, unless the option  
36 beneficiary is the member's spouse or former spouse who has been  
37 awarded a community property interest in the benefits of the  
38 member under this part, the member may not designate an option  
39 beneficiary under this option who is more than exactly 19 years  
40 younger than the member.

1 (3) Fifty percent beneficiary option. The modified retirement  
2 allowance shall be paid to the member and upon the death of the  
3 member, 50 percent of the modified allowance shall continue to  
4 be paid to the option beneficiary.

5 (4) Compound option. The member may designate multiple  
6 option beneficiaries or one or multiple option beneficiaries with  
7 a designated percentage to remain unmodified. The member shall  
8 elect an option as described in paragraph (1), (2), or (3) for each  
9 designated option beneficiary that would provide an actuarially  
10 modified retirement allowance payable throughout the lives of the  
11 member and the member's option beneficiary or beneficiaries.

12 (A) The modified retirement allowance shall be paid to the  
13 member as long as the member and at least one option beneficiary  
14 is living. Upon the member's death, an allowance shall be paid to  
15 each surviving option beneficiary in accordance with the option  
16 elected respective to that option beneficiary. If an option  
17 beneficiary predeceases the member, the member's allowance shall  
18 be adjusted in accordance with the option elected for the deceased  
19 option beneficiary.

20 (B) The member shall specify the percent of the unmodified  
21 allowance that will be modified by the election of each option  
22 described in paragraph (1), (2), or (3) of this subdivision. The  
23 percent of the unmodified allowance that is not modified by an  
24 option, if any, shall be payable to the member. The sum of the  
25 percentages specified for the option beneficiary or beneficiaries  
26 and the member's remaining unmodified allowance, if any, shall  
27 equal 100 percent.

28 (C) The member's election of the compound option is subject  
29 to all of the following:

30 (i) Pursuant to Section 401(a)(9) of the Internal Revenue Code,  
31 unless the option beneficiary is the member's spouse or former  
32 spouse who has been awarded a community property interest in  
33 the member's benefits under this part, the member may not  
34 designate an option beneficiary under the 100 percent beneficiary  
35 option within this compound option who is more than exactly 10  
36 years younger than the member.

37 (ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code,  
38 unless the option beneficiary is the member's spouse or former  
39 spouse who has been awarded a community property interest in  
40 the member's benefits under this part, the member may not

1 designate an option beneficiary under the 75 percent beneficiary  
2 option within this compound option who is more than exactly 19  
3 years younger than the member.

4 (b) For purposes of this section, the member shall designate an  
5 option beneficiary on a properly executed form prescribed by the  
6 system, which shall be duly executed and filed with the system at  
7 the time of the member's retirement.

8 (c) A member may revoke or change an election of an option  
9 at any time prior to the effective date of the member's retirement  
10 under this part. A revocation of an option may not be made in  
11 derogation of a spouse's or a former spouse's community property  
12 rights as specified in a court order.

13 (d) If an option beneficiary designated pursuant to paragraphs  
14 (1) to (3), inclusive, of subdivision (a) predeceases the member,  
15 the retirement allowance shall be paid to the member without  
16 modification for the option. If the option beneficiary predeceases  
17 the member, the member may designate a new option beneficiary.  
18 The effective date of the new designation shall be six months  
19 following the date of notification is received by the board, provided  
20 both the member and the designated option beneficiary are then  
21 living. Notification shall be on a properly executed form provided  
22 by the system. The designation of the new option beneficiary  
23 pursuant to this subdivision is subject to an actuarial modification  
24 of the unmodified retirement allowance and may not result in  
25 additional liability to the fund. The new option beneficiary cannot  
26 be an existing option beneficiary.

27 (e) Notwithstanding Section 297 or 299.2 of the Family Code,  
28 a spouse described in paragraphs (2) and (4) of subdivision (a)  
29 does not include the domestic partner of the member, pursuant to  
30 Section 7 of Title 1 of the United States Code.

31 (f) If there is a determination of community property rights as  
32 described in Chapter 12 (commencing with Section 22650) of this  
33 part on or before December 31, 2006, the member may elect the  
34 option that is required by the judgment or court order. Nothing in  
35 this part shall permit the member to change the option to the  
36 detriment of the community property interest of the nonmember  
37 spouse.

38 (g) The board may evaluate the existing options and annuities  
39 provided pursuant to this section, Chapter 38 (commencing with  
40 Section 25000) of this part, and Part 14 (commencing with Section

1 26000) and adopt, as a plan amendment, any appropriate changes  
2 to the options and annuities based on the needs of the members,  
3 participants, and their beneficiaries, including, but not limited to,  
4 providing economic security for beneficiaries and reducing the  
5 complexity of the options and annuities. The changes to the options  
6 and annuities may have no net actuarial impact on the retirement  
7 fund and the board may establish any eligibility criteria the board  
8 deems necessary to prevent an adverse actuarial impact to the fund.  
9 The board shall designate the effective date of the plan amendment,  
10 which shall be at least 18 months after the amendment is adopted  
11 by the board, and notwithstanding any other provision of this  
12 section, the options and annuities available to members and  
13 participants eligible to retire pursuant to this part and Part 14  
14 (commencing with Section 26000), after the effective date of the  
15 plan amendment made pursuant to this subdivision, shall reflect  
16 the changes adopted as a plan amendment to this subdivision.

17 SEC. 23. Section 24309 of the Education Code is amended to  
18 read:

19 24309. (a) A member may change or cancel the election of an  
20 option made pursuant to Section 24307. The change or cancellation  
21 shall be on a properly executed form provided by the system and  
22 received at the system's headquarters office, as established pursuant  
23 to Section 22375, within 30 days of the date of the member's  
24 signature and, if applicable, the spouse's signature, and before the  
25 effective date of retirement under this part or during the period  
26 between termination of the retirement allowance pursuant to  
27 Section 24117 or 24208 and the effective date of the subsequent  
28 retirement under this part. The change or cancellation shall become  
29 effective as of the date of the member's signature.

30 (1) Any change to an election of an option shall be made  
31 according to Section 24307 and shall be considered a new  
32 preretirement election of an option.

33 (2) Regardless of how the member elects to receive his or her  
34 retirement allowance, a change made to an election of an option  
35 or a cancellation of an option shall result in the reduction of that  
36 allowance by an amount determined by the board to be the actuarial  
37 equivalent of the coverage the member received as a result of the  
38 preretirement election and that does not result in any adverse  
39 funding to the plan.



1 (b) If the option beneficiary designated in the preretirement  
2 election of an option pursuant to Section 24307 dies prior to the  
3 member's retirement, the preretirement election shall be canceled  
4 as of the day following the date of death and the member's  
5 subsequent retirement allowance under this part shall be subject  
6 to the allowance reduction prescribed in this section.

7 (c) If the option elected pursuant to Section 24307 is "Option  
8 8" as described in paragraph (7) of subdivision (a) of Section 24300  
9 or the compound option as described in paragraph (4) of  
10 subdivision (a) of Section 24300.1, a member may cancel the  
11 designation of an option beneficiary. If the member cancels the  
12 designation of the option beneficiary or the option beneficiary  
13 predeceases the member prior to the member's retirement, the  
14 member may elect to receive that portion of the retirement  
15 allowance without modification for the option or elect one or  
16 multiple new or existing option beneficiaries as described in  
17 Section 24307. Any change or cancellation of the designation of  
18 the option beneficiary under this subdivision shall result in the  
19 allowance reduction prescribed in this section.

20 ~~SEC. 24. Section 24607 of the Education Code is amended to~~  
21 ~~read:~~

22 ~~24607. Any payment issued by the system under this part, for~~  
23 ~~the month in which a retired member or disabled member dies, or~~  
24 ~~any subsequent month shall be revoked by the system.~~

25 ~~SEC. 25.~~

26 *SEC. 24.* Section 24616 of the Education Code is amended to  
27 read:

28 24616. Any overpayment made to or on behalf of any member,  
29 former member, or beneficiary, including but not limited to  
30 contributions, interest, benefits of any kind, federal or state tax,  
31 or insurance premiums, shall be deducted from any subsequent  
32 benefit that may be payable under either the Defined Benefit  
33 Program, the Defined Benefit Supplement Program, or the Cash  
34 Balance Benefit Program, except as provided in Section 24616.5.  
35 These deductions shall be permitted concurrently with any suit for  
36 restitution, and recovery of overpayment by adjustment shall reduce  
37 by the amount of the recovery the extent of liability for restitution.

38 ~~SEC. 26.~~

39 *SEC. 25.* Section 24616.5 is added to the Education Code, to  
40 read:

1 24616.5. If an employer reports erroneous information, the  
2 system shall calculate the actuarial present value of the expected  
3 payments from the member, the former member, or beneficiary  
4 pursuant to Sections 22008 and 24617. The employer shall pay  
5 the difference between the total amount of the overpayment and  
6 the calculation of the actuarial present value of expected payments.

7 ~~SEC. 27.~~

8 *SEC. 26.* Section 26302 of the Education Code is amended to  
9 read:

10 26302. If more or less than the contributions required by this  
11 part are paid to the plan based on salary paid to a participant, proper  
12 adjustment shall be made by the employer within 60 days of  
13 discovery or of notification by the system, and any contributions  
14 deducted in error from the participant's salary shall be returned to  
15 the participant by the employer within the same time period.

16 ~~SEC. 28.~~

17 *SEC. 27.* Section 27303 of the Education Code is amended to  
18 read:

19 27303. Any overpayment to a participant or beneficiary under  
20 this part shall be deducted from any subsequent benefit payment  
21 that may be payable under the plan, except as provided in Section  
22 27303.5.

23 ~~SEC. 29.~~

24 *SEC. 28.* Section 27303.5 is added to the Education Code, to  
25 read:

26 27303.5. If an employer reports erroneous information, the  
27 system shall calculate the actuarial present value of the expected  
28 payments from the participant or beneficiary pursuant to Sections  
29 22008 and 24617. The employer shall pay the difference between  
30 the total amount of the overpayment and the calculation of the  
31 actuarial present value of expected payments.

32 ~~SEC. 30.~~

33 *SEC. 29.* Section 27406 of the Education Code is amended to  
34 read:

35 27406. The nonparticipant spouse who is awarded separate  
36 nominal accounts with respect to the Cash Balance Benefit Program  
37 shall have the right to a lump-sum distribution of amounts credited  
38 to the account.

39 (a) The nonparticipant spouse shall file an application on a form  
40 provided by the system to obtain the distribution.

1 (b) The distribution is effective when the system deposits in the  
2 United States mail a warrant drawn in favor of the nonparticipant  
3 spouse and addressed to the latest address for the nonparticipant  
4 spouse on file with the system.

5 (c) If the nonparticipant spouse has elected on a form provided  
6 by the system to transfer all or a specified portion of the accounts  
7 that are eligible for direct trustee-to-trustee transfer under Section  
8 401(a)(31) of Title 26 of the United States Code to the trustee of  
9 a qualified plan under Section 402 of Title 26 of the United States  
10 Code, deposit in the United States mail of a notice that the  
11 requested transfer has been made constitutes a distribution of the  
12 nonparticipant spouse's credit balance from the separate nominal  
13 accounts. This subdivision shall not apply to a nonparticipant  
14 partner consistent with Section 402 of the Internal Revenue Code.

15 (d) The nonparticipant spouse is deemed to have permanently  
16 waived all rights to an annuity when the distribution becomes  
17 effective.

18 (e) The nonparticipant spouse may not cancel a distribution  
19 after the distribution is effective.

20 (f) The nonparticipant spouse shall have no right to elect to  
21 redeposit the distribution after the distribution is effective.

22 ~~SEC. 31.~~

23 *SEC. 30.* Any section of any other act enacted by the  
24 Legislature during the 2010 calendar year that takes effect on or  
25 before January 1, 2011, that also amends, amends and renumbers,  
26 adds, repeals and adds, or repeals a section that is amended,  
27 amended and renumbered, added, repealed and added, or repealed  
28 by this act shall prevail over this act whether or not that act is  
29 enacted prior to or subsequent to the enactment of this act. The  
30 repeal, or repeal and addition of any article, chapter, part, title, or  
31 division of any code made by this act shall not become operative  
32 if any section of any other act that is also enacted by the Legislature  
33 during the 2010 calendar year and takes effect on or before January  
34 1, 2011, also amends, amends and renumbers, adds, repeals and  
35 adds, or repeals any section contained in that article, chapter, part,  
36 title, or division.